The Cochin Court Fees Act Amendment Bill

Mr. C. A. Kunjunni Raja *(Advocate-General):* I move that the Cochin Court Fees Act (Amendment) Bill* be taken up and passed.

Mr. K. P. Kannan Nayar *(Secretary to Government):* I second it.

Motion put and carried.

The Cochin Cultivating Verumpattamdar's Bill—*(cont.)*

Mr. A. B. Salem *(Mattancheri):* Having entered this Council after 8 years watching from the President's Gallery the work that I left inside this House, I wish to make one single remark and then pass on to the subject. I have come into this Council more by the play of intelligence and justice than through the play of votes. I had stupendous obstacles of communalism and commercialism in votes to contend with in my attempt during the past years to enter the last two Councils. I am sorry my friend Mr. Ayyappan is not present to-day in the House. During the last Session in which I had the privilege to be in this Council I said that I would not come back to the Council through the communal door, and my hon'ble friend then said that I would never be inside this Council again. Nevertheless I am now here and that through the general ordinary door.

Now coming to this very important question of agrarian reform, I am one with the Government in thinking that the *Verumpattamdars* of the State should have some permanency of tenure given to them, but there has been discussion going on in this House more on the details of the Bill than on the principles of the Bill. Much valuable time has been taken up on the details which are unnecessary now. All details could be discussed in the Select Committee where we can have opportunities to thresh out all details. I would say that there are some serious objections raised in many quarters. I have this morning perused a petition that came from the Chittur Taluk. They are very much opposed to the Bill. According to them it is an interference with the proprietory right of possession of the landlord and it is altogether *ultra vires* on principle. They also think that the good relations that exist between the landlord and the tenant and the oral leases that exist will all be jeopardised. They think that evictions are very rare and therefore the Bill is unnecessary. They think that the uneducated and unemployed sons of their own must be given their land to cultivate. They think that

*Appendix I.

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3. If the Government are not prepared to amend the Insolvency Act to give effect to the suggestions contained in paragraph (2) above, the petitioners pray that the Government may be pleased to accept the suggestions contained in the Agriculturists' Relief Bill introduced by Mr. A. V. Moothedan last year or the Agriculturists' Relief Act Amendment Bill going to be introduced by him.

In the circumstances, the petitioners pray that the Hon'ble Council may be pleased to incorporate suitable amendments in the Insolvency Act giving effect to the suggestions contained in paragraphs (2) and (3) above."

The House rose for the day at 5 p.m.

APPENDIX I

THE COCHIN COURT FEES (AMENDMENT) BILL

Preamble.—Whereas it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; And Whereas it is deemed necessary to further amend the Cochin Court Fees Act, II of 1080 for this purpose; It is hereby enacted as follows.—

1. (1) *Short title and commencement.*—This Act may be called the Cochin Court Fees (Amendment) Act, of 111 .

(2) It shall come into force at once.

2. *Insertion of a new chapter IV A.*—Insert the following as Chapter IV A in the Cochin Court Fees Act, II of 1080.—

"CHAPTER IV A

Suits relating to Land

28 A. (1) *Power to Government to make rules determining value of land for purposes of jurisdiction.*—The Government may make rules for determining the value of lands for purposes of jurisdiction in the suits mentioned in section 4, paragraphs V and VI and paragraph X, clause (*e*).

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area and may prescribe different values for different places within the same local area.

28 B. *Valuation of relief in certain suits relating to land not to exceed the value of the land.*—Where a suit mentioned in section 4, paragraph IV, or article 7 of Schedule II, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.

28 C. (1) *Making and enforcement of rules.*—Government shall, before making rules under section 28 A, consult the High Court with respect thereto.

(2) Rules under section 28 A shall not take effect till the expiration of one month after they have been published in the Cochin Government Gazette.

28 D. *Repeal of section 15 of the Cochin Civil Courts Act.*—On and from the date on which rules under section 28 A take effect, section 15 of the Cochin Civil Courts Act, III of 1076, shall stand repealed.

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Other Suits

28 E. *Court-fee value and jurisdictional value to be the same in certain suits.*—Where in suits other than those referred to in section 4, paragraphs V, VI and IX, and clause (*e*) of paragraph X, court-fees are payable *ad valorem* under this Act, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same.

28 F. *Determination of value of certain suits by High Court.*—When the subject-matter of suits of any class other than suits mentioned in section 4, paragraphs V and VI and clause (*e*) of paragraph X, is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court, may, with the previous sanction of Government, direct that suits of that class shall, for the purposes of this Act and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf.

28 G. *Repeal of the first proviso to section 10 of the Cochin Civil Courts Act, III of 1076.*—On and from the date on which the High Court directs under the last preceding section that particular classes of suits shall, for the purposes of this Act, and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in that behalf, the first proviso to section 10 of the Cochin Civil Courts Act, III of 1076, as amended up-to-date, will stand repealed so far as it relates to the class of suits in connection with which the High Court has specified the value.

Supplemental Provisions

28 H. (1) *Procedure where objection is taken on appeal or revision that a suit or appeal was not properly valued for jurisdictional purposes.*—Notwithstanding anything in section 84 of the Cochin Code of Civil Procedure Act, XXIX of 1111, an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

(*a*) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or

(*b*) the appellate Court is satisfied, for reasons to be recorded by it in writing that the suit or appeal was over-valued or under-valued, and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

(2) If the objection was taken in the manner mentioned in clause (*a*) of sub-section (1), but the appellate Court is not satisfied as to both the matters mentioned in clause (*b*) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of first instance or lower appellate Court.

(3) If the objection was taken in that manner and the appellate Court is satisfied as to both those matters and has not those materials before

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it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

(4) The provisions of the section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under section 95 of the Cochin Code of Civil Procedure, 1111, or other enactment for the time being in force.

28 I. *Pending Proceedings.*—Nothing in section 28A, 28B, 28C and 28D shall be construed to affect the jurisdiction of any Court.—

(*a*) with respect to any suit instituted before the rules under section 28A, 28B, 28C and 28D applicable to the valuation of the suit take effect, or

(*b*) with respect to any appeal arising out of any such suit."

APPENDIX II

THE COCHIN MUNICIPAL ACT AMENDMENT BILL

Preamble.—Whereas it is expedient to further amend the Cochin Municipal Act, XVIII of 1113; It is hereby enacted as follows.—

1. *Short title and commencement.*—This Act may be called the Cochin Municipal Amendment Act, of 111 , and shall come into force at once.

2. *Insertion of a new section, 147 A.*—After section 147 and before section 148 of the Cochin Municipal Act, XVIII of 1113, hereinafter referred to as "the Act", insert the following as section 147 A.—

"147 A. *Cleansing of private latrines, etc.*—Where the property tax levied in a municipality does not comprise a scavenging tax as referred to in clause (*c*) of sub-section (1) of section 74, the executive authority may contract with the owner or occupier of any premises to remove rubbish or filth or any particular kind of rubbish or filth, from such premises or any place belonging thereto on such terms as to times and periods of removal and other matters as may seem suitable to the executive authority, and on payment of fees at such rate calculated to cover the cost of the service as the council may have laid down with the approval of the Government."

3. *Amendment to section 373.*—In clause (*b*) of section 373 of the Act substitute for the figure, word and brackets "(Chapter VIII)" the following.—

"(Sections 139, 140, 141 and 142 of Chapter VII and Chapter VIII)".

APPENDIX III

THE GOVERNMENT TRADING TAXATION BILL

Whereas it is expedient to determine the liability to taxation for the time being in force in Cochin of foreign Governments in respect of any trade or business carried on by or on behalf of such Governments; It is hereby enacted as follows.—

1. (1) *Short title and commencement.*—This Act may be called the Government Trading Taxation Act, 111 .

(2) It shall come into force on such date as Government may, by notification in the Cochin Government Gazette, appoint.

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